

A Monthly Newsletter Serving the



Defense Logistics Agency Community

ENVIRONMENTALLY PREFERABLE PURCHASING (EPP)

Providing Buyers, Catalogers and Item Specialists

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The Information Busy People Need to Keep Current

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Comprehensive Procurement Guidelines

On December 10, 2003 EPA published its Proposed Rule establishing CPG V: revising the current compost designation to include compost made from manure or biosolids, and designating fertilizers made from recovered organic materials. EPA is also proposing to consolidate all compost designations under one item called "compost made from recovered organic materials." The Federal Register notice is available on the web at:

<http://www.epa.gov/epaoswer/non-hw/procure/pdf/proposedcpg5.pdf>

EPA will accept public comments until Feb 9 electronically through their website:

http://cascade.epa.gov/RightSite/dk_public_home.htm

Click on "View Dockets", look for Docket ID RCRA-2003-0005 and follow the directions. Using the search option was less successful - it was time consuming and was unable to find a docket using the ID. The purpose of this CPG is to make beneficial use of a large amount of the animal manure and biosolids produced in the United States, including the 64 million tons from cattle and hogs. Using this material as raw material for compost as opposed to applying it directly to the land can alleviate many

environmental and human health problems, while providing an important agricultural service.

The status of CPG IV is unchanged. The date for publication of the proposed rule in the Federal Register has not been announced. For details on the wide range of product categories affected by this CPG, visit the EPA web site:

<http://www.epa.gov/cpg/rman4-proposed.htm>

Biobased Products

The 2003 Farm Bill assigns a statutory requirements on USDA to designate biobased products that Federal Agencies are required to purchase. On December 19, USDA posted its Notice of Proposed Rulemaking to fulfil this obligation. The USDA press release at: <http://www.usda.gov/news/releases/2003/12/0424.htm> announces the proposed rule, and includes an indirect link to the notice that appeared in the Federal Register. However, it's easiest to download the entire notice from this website:

http://www.biobased.oce.usda.gov/FSRIA/draft_guidelines_submitted_to_Federal_Register.pdf.

The Proposed Rule establishes guidelines for designating qualifying items, and for Federal agencies to follow in procuring designated items. Important elements of the Proposed Rule include: establishing criteria products must meet in order to qualify for preferential procurement; identifying specific items that Agencies must give preferential procurement; and guidelines Agencies must follow in establishing affirmative procurement programs, including making officials aware of their responsibilities under the program and annually monitoring its effectiveness. Where requirements to purchase EPA's Comprehensive Procurement Guidelines (CPG) items are incompatible with USDA's biobased products program, the CPG requirements take precedence. Further, the biobased products program does not apply to the procurement of motor vehicle fuels or electricity.

Determining Qualifying Items: Prior to determining if a specific item qualifies, USDA will consider factors such as availability, the economic feasibility of using the item based on life cycle costs, the technological feasibility of using the item, relative price, performance, and environmental and public health benefits of using the item. Much of this data will be gathered from manufacturers and vendors at the individual product level who will maintain their own information directly at USDA's website. In terms of priorities, USDA will focus first on items having the greatest likelihood of sale to Federal agencies.

Product Testing: USDA was appropriated \$1M to test products, and has discretion regarding which products to test. USDA may target the use of these funds to fill gaps in data not provided by vendors in order to expedite designation of items. USDA will also give priority to items where vendors are willing to share the cost of testing.

What DLA Can Expect From Vendors: Manufacturers and vendors must be able to certify to DLA that their products are consistent with USDA's definition of biobased products, and must be able to present third party test results that indicate the biobased products have at least the threshold amount of biobased feedstock content specified in the designating regulations for the item under which the biobased products fit. Further, they must be able to demonstrate the item was tested against an accepted performance standard (such as a Federal or Military Specification, ASTM, ISO, etc.) for the product and for its intended use. In addition, the test must be conducted by an ASTM/ISO compliant test facility. These provisions mean DLA does not have to accept a vendor's word alone that their product meets the content threshold to be considered for preferential procurement.

Specific Product Categories: The Proposed Rule includes the following product categories which USDA will designate for minimum biobased content that qualify for preferential procurement: Adhesives; Construction Materials and Composites; Fibers, Paper, and Packaging; Fuel Additives (different than fuel); Landscaping Materials, Compost, and Fertilizer (See CPG IV above); Lubricants and Functional Fluids; Plastics; Paints and Coatings; Solvents and Cleaners; Sorbents; and Plant and Vegetable Inks.

Proposed Labeling Rule: USDA has proposed a voluntary labeling program that would allow vendors and manufacturers to apply a label such as "USDA Certified Biobased Product" to qualifying products. This could greatly simplify the task of product centers and catalogers to identify compliant items.

Asbestos Definition Revisited

The Joint Group on Environmental Attributes established Asbestos Alternative products as an attribute for DLA's Environmentally Preferable Purchasing (EPP) Program, and adopted EPA's definition of asbestos containing products: "An Asbestos Alternative Product ...is a product that is a replacement for a product previously containing asbestos that contains less than 1.0 percent asbestos by weight or area (as determined using EPA Test method as published in 40 CFR 763.163, Subpart E or equivalent ASTM Test Method)." OSHA, however, has a different view of asbestos as a carcinogen. It requires asbestos to be listed in Material Safety Data Sheets for products if its concentration reaches 0.1 percent, or one tenth of EPA's definition. Since 1991 the European Union has banned the importation and use of asbestos in many products, with a full ban extending to friction products and seals and gaskets becoming effective in January 2005. Unlike U.S. regulations, the EU distinguishes among different types of asbestos: chrysotile or "white" asbestos (also "bonded" asbestos); amosite or "brown" asbestos; and crocidolite or "blue" asbestos. The EU is also in the process of developing clear threshold levels by which products will be defined as "asbestos containing" and determining appropriate laboratory test methods for measuring asbestos content. The lack of clarity has caused some confusion, but there is currently no estimate of when the new levels or test methods will become official.

However, the EPA, OSHA and the EU are now collaborating to update asbestos regulations to reflect new scientific knowledge of the environmental and health effects of asbestos. The EU is proposing to revise its regulations to define asbestos containing products as those containing 0.01 percent concentration of asbestos. This is one hundredth the level of the EPA regulation and one tenth the level at which OSHA requires listing on an MSDS sheet. Further, scientists are studying the properties of asbestos that cause health problems and considering using them as a possible basis for regulation. One important physical feature is called the "aspect ratio" of the asbestos particle - that is the ratio of the length to thickness. It is unclear when either new U.S. or EU regulations might be issued. In the meantime, DLA may wish to carefully consider which of the available definitions best serves the purpose of its EPP program. There is more information on EPA's website: <http://www.epa.gov/asbestos/>.